

SENATE BILL No. 389

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-6.1-41; IC 9-13-2; IC 9-21; IC 9-30-3; IC 34-6-2-85; IC 34-28-5-1; IC 36-1-6-3.

Synopsis: Traffic infraction detection systems. Establishes the traffic infraction detection system pilot program, which allows a municipality to install a traffic infraction detection system (a device that produces still photographs of a vehicle that proceeds through a red light) at highway intersections under the jurisdiction of the municipality. Requires a local authority to receive authorization from the department of transportation (department) before installing traffic infraction detection systems. Requires dismissal of a citation based on a traffic infraction detection system that does not comply with installation, maintenance, or operational requirements. Prohibits a violation based on a report from a traffic infraction detection system from being used to determine insurance rates. Requires that the civil penalty imposed for a violation based on a report from a traffic infraction detection system be applied to defray the cost of the system, and that remaining funds be deposited in the violent crime victims compensation fund. Provides that the department may authorize not more than ten municipalities to participate in the pilot program, and requires the department to submit a report analyzing the program to the legislative council before December 31, 2012. Requires that a yellow light have a duration of at least five seconds. Makes conforming changes. Repeals a superseded definition.

Effective: July 1, 2009.

Rogers, Mishler

January 8, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 389

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-6.1-41, AS AMENDED BY P.L.105-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 41. The fund consists of amounts deposited under
4 IC 5-2-6.3-6(b)(3), **IC 9-21-3.6**, IC 11-10-7-5, IC 11-10-8-6,
5 IC 33-37-7-9, IC 34-51-3-6, and IC 35-50-5-3 and appropriations from
6 the general assembly.

7 SECTION 2. IC 9-13-2-94.3 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2009]: **Sec. 94.3. "Local police officer", for purposes of**
10 **IC 9-21-3.6, has the meaning set forth in IC 9-21-3.6-3.**

11 SECTION 3. IC 9-13-2-110 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 110. "Moving traffic
13 ~~offense~~, **violation**", for purposes of IC 9-25-9-1 and IC 9-30-3-14, has
14 the meaning set forth in ~~IC 9-30-3-14(a)~~. **IC 9-30-3-14(b).**

15 SECTION 4. IC 9-13-2-182.3 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2009]: **Sec. 182.3. "Traffic control device",**



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for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-1.5.

SECTION 5. IC 9-13-2-182.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 182.5. "Traffic control signal", for purposes of IC 9-21, has the meaning set forth in IC 9-21-1-1.7.**

SECTION 6. IC 9-13-2-182.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 182.7. "Traffic infraction detection system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.6-5.**

SECTION 7. IC 9-13-2-196.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 196.4. "Vendor", for purposes of IC 9-21-3.6, has the meaning set forth in IC 9-21-3.6-6.**

SECTION 8. IC 9-21-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this article, "traffic control device" means a sign, signal, marking, or device, including a railroad advance warning sign, consistent with this title, placed or erected by the authority of a public body or an official having jurisdiction for purposes of regulating, warning, or guiding traffic.**

SECTION 9. IC 9-21-1-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.7. As used in this article, "traffic control signal" means a traffic signal as defined by the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as adopted by rule under IC 9-21-2-1 by which traffic alternately is directed to stop and permitted to proceed.**

SECTION 10. IC 9-21-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3. (a) A local authority, with respect to private roads and highways under the authority's jurisdiction, in accordance with section 2 of this chapter, and within the reasonable exercise of the police power, may do the following:**

- (1) Regulate the standing or parking of vehicles.
- (2) Regulate traffic by means of police officers or traffic control signals, **including enforcement by use of traffic infraction detection systems if authorized by the Indiana department of transportation under IC 9-21-3.6.**
- (3) Regulate or prohibit processions or assemblages on the highways.
- (4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific

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direction.

(5) Regulate the speed of vehicles in public parks.

(6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.

(7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.

(8) Restrict the use of highways as authorized in IC 9-21-4-7.

(9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.

(10) Regulate or prohibit the turning of vehicles at intersections.

(11) Alter the prima facie speed limits authorized under IC 9-21-5.

(12) Adopt other traffic regulations specifically authorized by this article.

(13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.

(14) Regulate or prohibit the operation of low speed vehicles on highways.

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), (a)(13), or (a)(14), is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 11. IC 9-21-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section applies to the person who drives an authorized emergency vehicle when:

(1) responding to an emergency call;

(2) in the pursuit of an actual or suspected violator of the law; or

(3) responding to, but not upon returning from, a fire alarm.

(b) The person who drives an authorized emergency vehicle may do the following:

(1) Park or stand, notwithstanding other provisions of this article.

(2) Proceed past a red ~~or stop~~ **traffic control** signal or ~~stop sign,~~ **traffic control device**, but only after slowing down as necessary for safe operation.

(3) Exceed the maximum speed limits if the person who drives the vehicle does not endanger life or property.

(4) Disregard regulations governing direction of movement or turning in specified directions.

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(c) This section applies to an authorized emergency vehicle only when the vehicle is using audible or visual signals as required by law. An authorized emergency vehicle operated as a police vehicle is not required to be equipped with or display red and blue lights visible from in front of the vehicle.

(d) This section does not do the following:

(1) Relieve the person who drives an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.

(2) Protect the person who drives an authorized emergency vehicle from the consequences of the person's reckless disregard for the safety of others.

SECTION 12. IC 9-21-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Each traffic **control** signal installation on a street or highway within Indiana may be erected only after the completion of traffic engineering studies that verify that the traffic ~~signal~~ control **signal** is necessary as set forth in the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways.

(b) If:

(1) the proposed installation is in the immediate vicinity of a school; and

(2) the installation does not meet the requirements of this section; the governmental unit responsible for the control of traffic at the location shall grant a special hearing on the question to a person who has properly petitioned for the installation of a traffic **control** signal.

SECTION 13. IC 9-21-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Each traffic **control** signal upon a street or highway in Indiana that does not conform to this chapter shall be removed by the governmental agency having jurisdiction over the highway.

SECTION 14. IC 9-21-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The Indiana department of transportation is responsible for the control of all traffic **control** signals on the state highway system.

SECTION 15. IC 9-21-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. A traffic **control** signal installation on a state route is the property of the Indiana department of transportation.

SECTION 16. IC 9-21-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (b), a public or private agency may not erect a

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1 traffic control device on a state maintained highway without the written
2 permission of the Indiana department of transportation.

3 (b) This subsection applies to the installation of traffic **control**
4 signals on a state highway in a city or town. The Indiana department of
5 transportation shall:

6 (1) install any **traffic control** signal that meets the standards,
7 specifications, and warrants set forth in the Indiana Manual on
8 Uniform Traffic Control Devices for Streets and Highways; or

9 (2) grant written permission to a city or town to erect the **traffic**
10 **control** signal if it is not possible for the state immediately to
11 install the **traffic control** signal.

12 SECTION 17. IC 9-21-3-7 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Whenever traffic
14 is controlled by traffic control signals exhibiting different colored lights
15 or colored lighted arrows successively, one (1) at a time or in
16 combination, only the colors green, red, or yellow may be used, except
17 for special pedestrian signals under IC 9-21-18.

18 (b) The lights indicate and apply to drivers of vehicles and
19 pedestrians as follows:

20 (1) Green indication means the following:

21 (A) Vehicular traffic facing a circular green signal may
22 proceed straight through or turn right or left, unless a sign at
23 the place prohibits either turn.

24 (B) Vehicular traffic, including vehicles turning right or left,
25 shall yield the right-of-way to other vehicles and to pedestrians
26 lawfully within the intersection or an adjacent sidewalk at the
27 time the signal is exhibited.

28 (C) Vehicular traffic facing a green arrow signal, shown alone
29 or in combination with another indication, may cautiously
30 enter the intersection only to make the movement indicated by
31 the green arrow or other movement permitted by other
32 indications shown at the same time.

33 (D) Vehicular traffic shall yield the right-of-way to pedestrians
34 lawfully within an adjacent crosswalk and to other traffic
35 lawfully using the intersection.

36 (E) Unless otherwise directed by a pedestrian control signal,
37 pedestrians facing a green signal, except when the sole green
38 signal is a turn arrow, may proceed across the roadway within
39 a marked or unmarked crosswalk.

40 (2) Steady yellow indication means the following:

41 (A) Vehicular traffic facing a steady circular yellow or yellow
42 arrow signal is warned that the related green movement is

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being terminated and that a red indication will be exhibited immediately thereafter.

(B) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal, is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway at that time.

(3) Steady red indication means the following:

(A) Except as provided in clause (B), vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line. However, if there is no clearly marked stop line, vehicular traffic shall stop before entering the crosswalk on the near side of the intersection. If there is no crosswalk, vehicular traffic shall stop before entering the intersection and shall remain standing until an indication to proceed is shown.

(B) Except when a sign is in place prohibiting a turn described in this ~~subdivision~~, **clause**, vehicular traffic facing a steady red signal, after coming to a complete stop, may cautiously enter the intersection to do the following:

(i) Make a right turn.

(ii) Make a left turn if turning from the left lane of a one-way street into another one-way street with the flow of traffic.

Vehicular traffic making a turn described in this ~~subdivision~~ **clause** shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

(C) Unless otherwise directed by a pedestrian control signal, pedestrians facing a steady circular red signal alone may not enter the roadway.

(4) No indication or conflicting indications means the following:

(A) Vehicular traffic facing an intersection having a **traffic control** signal that displays no indication or conflicting indications, where no other **traffic control signal** is present, shall stop before entering the intersection.

(B) After stopping, vehicular traffic may proceed with caution through the intersection and shall yield the right-of-way to traffic within the intersection or approaching so closely as to constitute an immediate hazard.

(5) This ~~section~~ **subdivision** applies to traffic control signals located at a place other than an intersection. A stop required under this subdivision must be made at the **traffic control** signal,

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except when the **traffic control** signal is supplemented by a sign or pavement marking indicating where the stop must be made.

(c) The duration of a steady yellow indication must be at least five (5) seconds.

SECTION 18. IC 9-21-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This section does not apply at railroad grade crossings.

(b) Whenever an illuminated flashing red or yellow light is used in a traffic **control** signal or with a traffic sign, vehicular traffic shall obey the **traffic control** signal in the following manner:

(1) Flashing red (stop signal) means the following:

(A) When a red lens is illuminated by rapid intermittent flashes, a person who drives a vehicle shall stop at a clearly marked stop line before entering the crosswalk on the near side of the intersection.

(B) If no line exists, the person shall stop at the point nearest the intersecting roadway where the person has a view of approaching traffic on the intersecting roadway before entering the roadway.

(C) The right to proceed is subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal) means that when a yellow lens is illuminated with rapid intermittent flashes, a person who drives a vehicle may proceed through the intersection or past the **traffic control** signal only with caution.

SECTION 19. IC 9-21-3.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 3.6. Traffic Infraction Detection System Pilot Program

Sec. 1. This chapter does not apply to the following:

(1) Farm wagons.

(2) Farm tractors.

(3) Farm machinery.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 3. As used in this chapter, "local police officer" means any of the following:

(1) A regular member of a city or town police department.

(2) A town marshal or deputy town marshal.

(3) A regular member of the county police force.

Sec. 4. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under any of the

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following:

- (1) IC 9-18.
- (2) The law of another state.
- (3) The law of a foreign country.
- (4) The International Registration Plan.

Sec. 5. As used in this chapter, "traffic infraction detection system" means a device that:

- (1) has one (1) or more motor vehicle sensors working in conjunction with a traffic control signal that exhibits:
 - (A) a steady red light as described in IC 9-21-3-7(b)(3); or
 - (B) an illuminated flashing red light as described in IC 9-21-3-8(b)(1); and
- (2) is capable of producing a photographically recorded still image of a motor vehicle or a vehicle being drawn by a motor vehicle, including an image of the vehicle's rear license plate, as the vehicle proceeds through an intersection while the traffic control signal is exhibiting a steady red light or an illuminated flashing red light.

The recorded image referred to in subdivision (2) may not include a recorded video image of a motor vehicle.

Sec. 6. As used in this chapter, "vendor" means a person who:

- (1) provides to a local authority; or
- (2) services;

a traffic infraction detection system.

Sec. 7. (a) The department may authorize not more than ten (10) municipalities to participate in the traffic infraction detection system pilot program.

(b) The executive of a municipality must submit an application to the department before the municipality may be authorized to participate in the traffic infraction detection system pilot program. An application must be in a form specified by the department and must include the following information:

- (1) Each intersection at which the municipality proposes to install a traffic infraction detection system.
- (2) Data on accidents and traffic violations for each intersection described under subdivision (1).
- (3) Any other information requested by the department to evaluate the extent to which an intersection poses a safety problem.

(c) If, after reviewing an application and any other information submitted under subsection (b), the department determines that an intersection poses a safety problem, the department may authorize

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the installation of one (1) or more traffic infraction detection systems.

(d) The department may authorize the installation of traffic infraction detection systems at not more than ten (10) intersections in a municipality.

Sec. 8. (a) A municipality authorized by the department to install traffic infraction detection systems under section 7 of this chapter must provide the department with a report required by subsection (b).

(b) A municipality must submit an annual report to the department containing the following information:

(1) Data on accidents and traffic violations for each intersection at which the municipality installs a traffic infraction detection system.

(2) Any other information requested by the department to evaluate the effectiveness of a traffic infraction detection system in reducing the:

(A) number of accidents and traffic violations; and

(B) risk to motorists and pedestrians;

at an intersection.

(c) Not later than December 31, 2012, the department shall submit a report analyzing the effectiveness of the program to the legislative council in an electronic format under IC 5-14-6.

Sec. 9. A local authority, with respect to highways under the local authority's jurisdiction, shall adopt and enforce an ordinance that regulates the placement and use of traffic infraction detection systems if the local authority is authorized under section 7 of this chapter to install traffic infraction detection systems.

Sec. 10. Before enforcing an ordinance adopted under section 9 of this chapter, the local authority must install advance warning signs along all approaches of the roadways preceding the intersection at which a traffic infraction detection system is located. The advance warning signs must warn motorists of the existence of the traffic infraction detection system.

Sec. 11. (a) Any citation based on a traffic infraction detection system that is not in compliance with the:

(1) installation;

(2) maintenance; and

(3) operational;

requirements shall be dismissed.

(b) All fines collected during the period of noncompliance shall be refunded to all defendants, regardless of plea.

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1 **Sec. 12. (a) An ordinance adopted under section 9 of this chapter**
 2 **must specify the following:**

3 **(1) That, except as provided in subdivision (2) and**
 4 **notwithstanding IC 9-21-3-7 and IC 9-21-8-41, the owner of**
 5 **a motor vehicle commits a violation of the ordinance when the**
 6 **traffic infraction detection system produces a recorded image**
 7 **as described in section 5(2) of this chapter of the motor**
 8 **vehicle proceeding or the vehicle being drawn by a motor**
 9 **vehicle proceeding through an intersection contrary to the**
 10 **requirement to stop at a red signal light under**
 11 **IC 9-21-3-7(b)(3).**

12 **(2) That, if the owner of a motor vehicle establishes a defense**
 13 **under section 13 or 14 of this chapter, the person:**

14 **(A) identified as having the care, custody, or control of the**
 15 **motor vehicle under section 13 of this chapter; or**

16 **(B) identified as the person driving the motor vehicle under**
 17 **section 14 of this chapter;**

18 **at the time of the violation commits the violation of the**
 19 **ordinance when the traffic infraction detection system**
 20 **produces a recorded image as described in section 5(2) of this**
 21 **chapter of the motor vehicle proceeding or the vehicle being**
 22 **drawn by a motor vehicle proceeding through an intersection**
 23 **contrary to the requirement to stop at a red signal light under**
 24 **IC 9-21-3-7(b)(3).**

25 **(b) The local authority shall mail the owner of a motor vehicle**
 26 **or a vehicle being drawn by a motor vehicle committing a violation**
 27 **of an ordinance adopted under section 9 of this chapter notice of**
 28 **the ordinance violation by certified mail postmarked not later than**
 29 **seven (7) business days after the alleged violation. The notice must**
 30 **include the following:**

31 **(1) The name and address of the owner of the motor vehicle or**
 32 **the vehicle being drawn by a motor vehicle.**

33 **(2) The registration number of the motor vehicle or the**
 34 **vehicle being drawn by a motor vehicle.**

35 **(3) The violation charged.**

36 **(4) The location of the intersection.**

37 **(5) The date and time of the violation.**

38 **(6) A copy of the recorded image described in section 5(2) of**
 39 **this chapter.**

40 **(7) The amount of the civil penalty imposed for the violation.**

41 **(c) An ordinance adopted under section 9 of this chapter:**

42 **(1) may not impose a civil penalty of more than one hundred**

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dollars (\$100); and

(2) must require that the civil penalty imposed for a violation of an ordinance adopted under section 9 of this chapter be applied to defray the cost of the installation, operation, and maintenance of the traffic infraction detection system, and that the remaining funds be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) An ordinance adopted under section 9 of this chapter may authorize the local authority to mail a warning notice to the owner of the motor vehicle or the vehicle being drawn by a motor vehicle instead of imposing a civil penalty for the violation of the ordinance.

(e) An ordinance adopted under section 9 of this chapter must provide that a local police officer must review the recorded image described in section 5(2) of this chapter before the notices referred to in subsections (b) and (d) are mailed to the owner of the motor vehicle or the vehicle being drawn by a motor vehicle.

Sec. 13. (a) It is a defense in a proceeding to enforce an ordinance adopted under section 9 of this chapter if the owner:

(1) proves that, at the time of the alleged violation, the owner was engaged in the business of renting or leasing motor vehicles under written agreements;

(2) proves that, at the time of the alleged violation, the motor vehicle was in the care, custody, or control of a person (other than the owner or an employee of the owner of the motor vehicle or the vehicle being drawn by a motor vehicle) under a written agreement for the rental or lease of the motor vehicle or the vehicle being drawn by a motor vehicle for a period of not more than sixty (60) days; and

(3) provides to the ordinance violations bureau or court the name and address of the person who was renting or leasing the motor vehicle or the vehicle being drawn by a motor vehicle at the time of the alleged violation.

(b) The owner of a motor vehicle or a vehicle being drawn by a motor vehicle may establish proof under subsection (a)(2) by submitting, not more than fifteen (15) business days after the owner receives notice by mail of the ordinance violation, a copy of the rental or lease agreement to the ordinance violations bureau or court.

(c) If the owner of a motor vehicle or a vehicle being drawn by a motor vehicle establishes the proof required under subsection (a)(2), the ordinance violations bureau or the court shall mail a

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notice of the ordinance violation to the person identified as the person having the care, custody, or control of the motor vehicle or the vehicle being drawn by a motor vehicle at the time of the violation. The proof required under subsection (a)(2) creates a rebuttable presumption that the person having the care, custody, or control of the motor vehicle or the vehicle being drawn by a motor vehicle at the time of the violation was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain the following:

(1) The information described in section 12(b) of this chapter.

(2) A statement that the person receiving the notice was identified by the owner of the motor vehicle or the vehicle being drawn by a motor vehicle as the person having the care, custody, or control of the motor vehicle at the time of the violation.

(3) A statement that a person may offer a defense as described in section 14 or 15 of this chapter.

Sec. 14. (a) This section applies to an owner other than an owner described in section 13 of this chapter.

(b) It is a defense to a proceeding to enforce an ordinance adopted under section 9 of this chapter if the owner provides to the ordinance violations bureau or court the following:

(1) An affidavit signed under the penalties of perjury that the owner was not driving the motor vehicle at the time of the alleged violation.

(2) An affidavit signed under the penalties of perjury stating either of the following:

(A) The name and address of the person driving the motor vehicle or the motor vehicle drawing a vehicle at the time of the alleged violation.

(B) That:

(i) the motor vehicle; or

(ii) the license plate of the motor vehicle or the vehicle being drawn by the motor vehicle;

had been stolen before the alleged violation occurred and was not under the control or possession of the owner at the time of the alleged violation. In addition to the affidavit described in this clause, the owner must submit proof that a police report was filed concerning the stolen motor vehicle or stolen license plate.

(c) If the owner of a motor vehicle or a vehicle being drawn by a motor vehicle submits the evidence required under subsection

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(b)(2)(A), the ordinance violations bureau or the court shall mail a notice of the ordinance violation to the person identified as the person driving the motor vehicle at the time of the violation. The evidence required under subsection (b)(2)(A) creates a rebuttable presumption that the person identified in the affidavit required under subsection (b)(2)(A) was the driver of the motor vehicle at the time of the violation. The notice required under this subsection must contain the following:

- (1) The information described in section 12(b) of this chapter.
- (2) A statement that the person receiving the notice was identified by the owner of the motor vehicle as the person driving the motor vehicle at the time of the violation.

Sec. 15. It is a defense to a proceeding to enforce an ordinance adopted under section 9 of this chapter that any of the following applies:

- (1) IC 9-21-1-8(b)(2) (a person driving an authorized emergency vehicle may proceed past a red traffic control signal or traffic control device after slowing down as necessary for safe operation).
- (2) IC 9-21-3-7(b)(4) (traffic control signal lights are giving no indication or conflicting indications).
- (3) IC 9-21-8-1 (complying with a lawful order or direction of a law enforcement officer).
- (4) IC 9-21-8-35(a) (yielding right-of-way to authorized emergency vehicles).
- (5) IC 9-21-13-1 (vehicle with lighted headlights is in a funeral procession).

Sec. 16. An ordinance adopted under section 9 of this chapter may not provide for the payment of compensation to a vendor on the basis of:

- (1) the number of recorded images as set forth in section 12(a)(1) of this chapter produced by the traffic infraction detection system equipment furnished by a vendor;
- (2) the number of ordinance violation citations issued as set forth in section 12(b) of this chapter; or
- (3) revenue generated by use of traffic infraction detection system equipment or services provided by a vendor.

Compensation provided to a vendor may be based on the value of the traffic infraction detection system equipment or services provided by the vendor.

Sec. 17. A violation under this chapter may not be used to determine rates for motor vehicle insurance.

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Sec. 18. This chapter expires June 30, 2019.

SECTION 20. IC 9-21-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. A person may not place, maintain, or display upon or in view of a highway an unauthorized sign, signal, marking, or device that:

- (1) purports to be, is an imitation of, or resembles ~~an official~~ a traffic control device or a railroad sign or signal;
- (2) attempts to direct the movement of traffic; or
- (3) hides from view or interferes with the effectiveness of ~~an official~~ a traffic control device or a railroad sign or signal.

SECTION 21. IC 9-21-8-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. (a) A person who drives a vehicle or street car may not disobey the instructions of ~~an official~~ a traffic control device placed in accordance with this article unless otherwise directed by a police officer.

(b) When a traffic control device or flagman is utilized at a worksite on a highway for traffic control, a person who drives a vehicle shall exercise extraordinary care to secure the mutual safety of all persons and vehicles at the worksite.

(c) All traffic shall observe and obey traffic control devices including signals, signs, and warnings, and all directions, signs, or warning devices that may be given or displayed by a police officer or flagman to safely control traffic movement at a worksite and promote safety at a worksite.

SECTION 22. IC 9-21-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A pedestrian shall obey the instructions of ~~an official~~ a traffic control device specifically applicable to the pedestrian, unless otherwise directed by a police officer.

SECTION 23. IC 9-21-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. A pedestrian may not cross a roadway intersection diagonally unless authorized by ~~official~~ traffic control devices. When authorized to cross diagonally, pedestrians ~~shall~~ **may** cross only in accordance with the ~~official~~ traffic control devices pertaining to diagonal crossing movements.

SECTION 24. IC 9-30-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

- (1) been convicted of at least two (2) traffic misdemeanors;
- (2) had at least two (2) traffic judgments entered against the person; or

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(3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person; the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred:

(1) The individual has been convicted of a moving traffic ~~offense~~ **violation** (as defined in section ~~14(a)~~ **14(b)** of this chapter), other than an offense that solely involves motor vehicle equipment.

(2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

(1) fails to attend a defensive driving school program; or

(2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding IC 33-37-4-2, any court may suspend one-half (1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 25. IC 9-30-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. **(a) This section does not apply to a violation of an ordinance adopted under IC 9-21-3.6-9.**

~~(a)~~ **(b)** As used in this section, "moving traffic ~~offense~~ **violation**" means a violation of a statute, an ordinance, or a rule relating to the operation or use of motor vehicles while the motor vehicle is in motion.

~~(b)~~ **(c)** If a court convicts a person for a moving traffic ~~offense~~ **violation**, and the person is known or believed by the court not to be the owner of the motor vehicle, the court shall, within seven (7) days after entering the conviction, deposit with the United States Postal Service, first class postage prepaid, a notice addressed to the owner of the motor vehicle giving the owner the following information:

(1) The name and address of the person convicted.

(2) The name and address of the owner of the motor vehicle.

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(3) The offense upon which the conviction was made.

(4) The date of arrest of the person convicted and the location of the place of the offense.

(5) The license plate number of the motor vehicle.

(6) The operator's or chauffeur's license number of the person convicted.

(7) The date of the conviction and the name of the court making the conviction.

SECTION 26. IC 34-6-2-85 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 85. "Moving traffic violation", for purposes of IC 34-28-5, means a violation of:

(1) a statute defining an infraction; or

(2) an ordinance, **other than a violation of an ordinance adopted under IC 9-21-3.6-9;**

that applies when a motor vehicle is in motion.

SECTION 27. IC 34-28-5-1, AS AMENDED BY P.L.200-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may

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1 establish a deferral program for deferring actions brought under this
2 section. Actions may be deferred under this section if:

3 (1) the defendant in the action agrees to conditions of a deferral
4 program offered by the prosecuting attorney or the attorney for a
5 municipal corporation;

6 (2) the defendant in the action agrees to pay to the clerk of the
7 court an initial user's fee and monthly user's fee set by the
8 prosecuting attorney or the attorney for the municipal corporation
9 in accordance with IC 33-37-4-2(e);

10 (3) the terms of the agreement are recorded in an instrument
11 signed by the defendant and the prosecuting attorney or the
12 attorney for the municipal corporation;

13 (4) the defendant in the action agrees to pay a fee of seventy
14 dollars (\$70) to the clerk of court if the action involves a moving
15 traffic ~~offense~~ **violation** (as defined in ~~IC 9-13-2-110~~;
16 **IC 34-6-2-85**);

17 (5) the agreement is filed in the court in which the action is
18 brought; and

19 (6) if the deferral program is offered by the prosecuting attorney,
20 the prosecuting attorney electronically transmits information
21 required by the prosecuting attorneys council concerning the
22 withheld prosecution to the prosecuting attorneys council, in a
23 manner and format designated by the prosecuting attorneys
24 council.

25 When a defendant complies with the terms of an agreement filed under
26 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
27 attorney or the attorney for the municipal corporation shall request the
28 court to dismiss the action. Upon receipt of a request to dismiss an
29 action under this subsection, the court shall dismiss the action. An
30 action dismissed under this subsection (or IC 34-4-32-1(f) before its
31 repeal) may not be refiled.

32 (g) If a judgment is entered against a defendant in an action to
33 enforce an ordinance, the defendant may perform community
34 restitution or service (as defined in IC 35-41-1-4.6) instead of paying
35 a monetary judgment for the ordinance violation as described in section
36 4(e) of this chapter if:

37 (1) the:

38 (A) defendant; and

39 (B) attorney for the municipal corporation;

40 agree to the defendant's performance of community restitution or
41 service instead of the payment of a monetary judgment;

42 (2) the terms of the agreement described in subdivision (1):

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- 1 (A) include the amount of the judgment the municipal
 2 corporation requests that the defendant pay under section 4(e)
 3 of this chapter for the ordinance violation if the defendant fails
 4 to perform the community restitution or service provided for
 5 in the agreement as approved by the court; and
 6 (B) are recorded in a written instrument signed by the
 7 defendant and the attorney for the municipal corporation;
 8 (3) the agreement is filed in the court where the judgment was
 9 entered; and
 10 (4) the court approves the agreement.

11 If a defendant fails to comply with an agreement approved by a court
 12 under this subsection, the court shall require the defendant to pay up to
 13 the amount of the judgment requested in the action under section 4(e)
 14 of this chapter as if the defendant had not entered into an agreement
 15 under this subsection.

16 SECTION 28. IC 36-1-6-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Certain
 18 ordinances may be enforced by a municipal corporation without
 19 proceeding in court through:

- 20 (1) an admission of violation before the violations clerk under
 21 IC 33-36; or
 22 (2) administrative enforcement under section 9 of this chapter.
 23 (b) Except as provided in subsection (a), a proceeding to enforce an
 24 ordinance must be brought in accordance with IC 34-28-5, section 4 of
 25 this chapter, or both.
 26 (c) An ordinance defining a moving traffic violation may not be
 27 enforced under IC 33-36 and must be enforced in accordance with
 28 IC 34-28-5.

29 **(d) An ordinance adopted under IC 9-21-3.6-9 may be enforced**
 30 **under IC 33-36 or IC 34-28-5.**

31 SECTION 29. IC 9-13-2-117 IS REPEALED [EFFECTIVE JULY
 32 1, 2009].

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